

**Notice of Allowability**

Application No.

10/629,978

Examiner

Peter J. Vrettakos

Applicant(s)

MCDEVITT ET AL.

Art Unit

3739

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Amendment dated 1-26-06.
2. ☒ The allowed claim(s) is/are 38-40, 42-47, 49-57 and 68-73.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some\*    c) ☐ None    of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

- |  |  |
|--|--|
| 1. <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 6. <input type="checkbox"/> Interview Summary (PTO-413),<br>Paper No./Mail Date _____. |
| 3. <input checked="" type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),<br>Paper No./Mail Date <u>10-2-03, 7-14-04</u> | 7. <input type="checkbox"/> Examiner's Amendment/Comment                               |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br>of Biological Material                                       | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance   |
|  | 9. <input type="checkbox"/> Other _____.   |

### **REASONS FOR ALLOWANCE**

The application is published application number: 2005/0090862. The publication is classified in US 606/232.

The effective filing date of this application 8-10-1999.

Pending claims are 38-40, 43-47, 49-57 and 68-73 are pending. Claims 38, 47, 49, 52, 57, 68, 72 and 73 are independent.

The information disclosure statements (IDS) dated 7-14-04 and 10-2-03 are being considered by the examiner.

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Lisa Adams on 2-17-06.

The application has been amended as follows:

1. In the Specification at page 1, line 1: --

### **CROSS-REFERENCE TO RELATED APPLICATIONS**

This application is a continuation of application No. 10/375,389 09/27/2003 U.S. Patent No. 6,660,023 filed on February 27, 2003 and entitled "Self-Locking Suture

Anchor," which is a continuation of application No. 09/371,411 08/10/1999 U.S. Patent No. 6,527,794 filed on August 10, 1999 and entitled "Self-locking Suture Anchor." These references are hereby incorporated by reference in their entirety. -- has been inserted.

2) In the Specification at page 1, line 1: "

#### CROSS-REFERENCE TO RELATED APPLICATIONS

This application is a continuation U.S. Patent No. 6,660,023 filed on February 27, 2003 and entitled "Self-Locking Suture Anchor," which is a continuation U.S. Patent No. 6,527,794 filed on August 10, 1999 and entitled "Self-locking Suture Anchor." These references are hereby incorporated by reference in their entirety." has been deleted.

The Examiner's Amendment has inserted into beginning of the Specification, application numbers in addition to Patent numbers. **See MPEP § 201.11.** The Applicant is respectfully urged to ensure all future applications contain patent numbers **and application numbers** in the CROSS-REFERENCE section of the Specification.

**The following is an examiner's statement of reasons for allowance:** Claim 38

includes radial channels such as elements 23 and 25 in figure 2(a). Goble (5,702,397) does not teach or suggest radial channels.

Claims 47, 49, 52, 57 include two components (10 and 16 in figure 2a) held together "solely by" *interference fit*. In the Declaration dated 7-30-03 point number six discloses that Goble (5,702,397) (the closest prior art) discloses a *mechanical interlock* between two components (see figure 17, elements/notches/serrations 46 and 56), which involves corresponding surface features that interact to engage each other. The Office relies heavily on the Declaration's characterization of the Goble suture anchor. Alternatively, the independent claims now disclose a suture anchor comprised of two elements held together solely by *interference fit*, which unlike the *mechanical interlock* of Goble, involves "interference" forces that act normal to the area of contact to retain a suture. In other words, the internal forces due to physical structures (46,56) involved in Goble do not anticipate or make obvious the internal forces due to physical structures involved in the Applicant's suture invention. To this end, the related rejections are obviated.

Claims 68 and 73 include a *frangible attachment*. The prior art is not *frangibly attached* as in figures 4a-c (38). Instead the Goble device is merely frangible due to a reduced cross-sectional diameter as seen in figure 17 elements 70 and 71. There is no attachment in Goble that can be characterized as "frangible".

Claim 72 includes a formed loop segment as seen in figures 2(a), 3(b) element 26. Goble does not teach or suggest a looped suture segment.

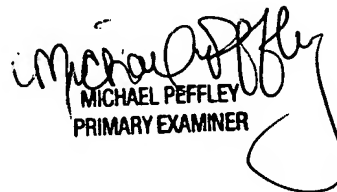
Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Peter J. Vrettakos whose telephone number is 571-272-4775. The examiner can normally be reached on M-F 9-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Linda C. Dvorak can be reached on 571-272-4764. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Pete Vrettakos  
February 18, 2006



MICHAEL PEFFLEY  
PRIMARY EXAMINER